



Senate

General Assembly

File No. 80

January Session, 2009

Senate Bill No. 733

Senate, March 16, 2009

The Committee on Labor and Public Employees reported through SEN. PRAGUE of the 19th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

**AN ACT CREATING A CIVIL ACTION FOR A CONSUMER
REPORTING AGENCY REPORTING A PROSPECTIVE EMPLOYEE'S
ERASED CRIMINAL HISTORY.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (h) of section 31-51i of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2009*):

4 (h) (1) For the purposes of this subsection: (A) "Consumer reporting
5 agency" means any person who regularly engages, in whole or in part,
6 in the practice of assembling or preparing consumer reports for a fee,
7 which reports compile and report items of information on consumers
8 that are matters of public record and are likely to have an adverse
9 effect on a consumer's ability to obtain employment, but does not
10 include any public agency; (B) "consumer report" means any written,
11 oral or other communication of information bearing on an individual's
12 credit worthiness, credit standing, credit capacity, character, general
13 reputation, personal characteristics or mode of living; and (C)

14 "criminal matters of public record" means information obtained from
15 the Judicial Department relating to arrests, indictments, convictions,
16 outstanding judgments, and any other conviction information, as
17 defined in section 54-142g.

18 (2) Each consumer reporting agency that issues a consumer report
19 that is used or is expected to be used for employment purposes and
20 that includes in such report criminal matters of public record
21 concerning the consumer shall:

22 (A) At the time the consumer reporting agency issues such
23 consumer report to a person other than the consumer who is the
24 subject of the report, provide the consumer who is the subject of the
25 consumer report (i) notice that the consumer reporting agency is
26 reporting criminal matters of public record, and (ii) the name and
27 address of the person to whom such consumer report is being issued;

28 (B) Maintain procedures designed to ensure that any criminal
29 matter of public record reported is complete and up-to-date as of the
30 date the consumer report is issued, which procedures shall, at a
31 minimum, conform to the requirements set forth in section 54-142e.

32 (3) This subsection shall not apply in the case of an agency or
33 department of the United States government seeking to obtain and use
34 a consumer report for employment purposes if the head of the agency
35 or department makes a written finding pursuant to 15 USC
36 1681b(b)(4)(A).

37 (4) A consumer reporting agency that discloses to an employer the
38 existence of any arrest, criminal charge or conviction, the records of
39 which have been erased pursuant to section 46b-146, 54-76o or 54-142a,
40 shall be liable in a civil action for damages, court costs and reasonable
41 attorney's fees to the aggrieved employee or prospective employee.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2009	31-51i(h)

LAB *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 10 \$	FY 11 \$
Judicial Department (Court Operations)	GF - Revenue Gain	Potential Minimal	Potential Minimal

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill grants employees or prospective employees the right to bring a civil action in Superior Court against a consumer reporting agency if that agency has disclosed to an employer a criminal record that has been erased in accordance with Connecticut's erasure laws.

The bill has no cost since it is not expected to substantially increase the caseload of the Judicial Department's Civil Division such that additional resources would be required.

The bill could yield a minimal revenue gain to the General Fund from the \$225 entry fee for civil causes.

The Out Years

The annualized ongoing fiscal impact identified above would remain constant into the future since the fee is established by statute.

Source: Judicial Department's Court Fee Schedule,
<http://www.jud.ct.gov/external/super/courtfee.htm>

OLR Bill Analysis**SB 733*****AN ACT CREATING A CIVIL ACTION FOR A CONSUMER REPORTING AGENCY REPORTING A PROSPECTIVE EMPLOYEE'S ERASED CRIMINAL HISTORY.*****SUMMARY:**

This bill permits an employee or prospective employee to bring a civil action against a consumer reporting agency that disclosed to an employer an erased record of arrest, criminal charge, or conviction. It applies to (1) juvenile police and court records, (2) youthful offender police and court records, and (3) criminal charges dismissed or nolle, certain not guilty findings, and pardons. Under the bill, the agency may be found liable for damages, court costs, and reasonable attorney's fees.

By law, consumer reporting agencies must maintain procedures to ensure that any criminal matter of public record they report is complete and up-to-date, as per requirements set in law, as of the date of the consumer report.

EFFECTIVE DATE: October 1, 2009

BACKGROUND***Consumer Reporting Agency***

A consumer reporting agency, by law, means any person who regularly engages in the practice of assembling or preparing, for a fee, consumer reports that include information from the public record about consumers that is likely to have an adverse effect on a consumer's ability to obtain employment. This definition excludes any public agency.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable

Yea 10 Nay 0 (03/05/2009)